



General Assembly

February Session, 2006

Raised Bill No. 5199

LCO No. 1174

01174_____HS_

Referred to Committee on Human Services

Introduced by:
(HS)

***AN ACT CONCERNING THE ESTABLISHMENT OF THE FATALITY
REVIEW BOARD.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) There is established a
2 persons with disabilities Fatality Review Board. The Fatality Review
3 Board shall investigate the circumstances surrounding the untimely
4 deaths of persons with disabilities, including the untimely deaths of all
5 clients under the care of the Department of Mental Retardation, that, in
6 the opinion of the director of the Office of Protection and Advocacy for
7 Persons with Disabilities warrant a full and independent investigation.
8 In addition, the Fatality Review Board may investigate the
9 circumstances surrounding deaths as described in subsection (b) of
10 section 46a-11c of the general statutes. In order to facilitate a prompt
11 investigation of the circumstances surrounding the untimely death of a
12 client under the care of the Department of Mental Retardation, said
13 director may refer a particular case to the Fatality Review Board prior
14 to the completion of a review conducted by the Independent Mortality
15 Review Board pursuant to the provisions of section 17a-210 of the 2006

16 supplement to the general statutes, as amended by this act.

17 (b) The Fatality Review Board shall consist of the following six
18 members: The director of the Office of Protection and Advocacy for
19 Persons with Disabilities, the Chief State's Attorney or his designee
20 and four members appointed by the Governor, one of whom shall be a
21 law enforcement professional with a background in forensic
22 investigations, one of whom shall be a mental retardation professional
23 and two of whom shall be medical professionals. The Commissioner of
24 Mental Retardation or the commissioner's designee shall serve as a
25 nonvoting liaison to the Fatality Review Board. The director of the
26 Office of Protection and Advocacy for Persons with Disabilities shall
27 serve as chairperson of the Fatality Review Board and may assign
28 agency staff and hire consultants with expertise as necessary to assist
29 the board in the completion of its investigation.

30 (c) In accordance with the requirements set forth in section 46a-13a
31 of the general statutes, all relevant state, local or private agencies shall
32 cooperate and assist the Fatality Review Board in the performance of
33 its statutory duties.

34 (d) On or before February 1, 2007, and annually thereafter, the
35 Fatality Review Board shall report, in accordance with section 11-4a of
36 the general statutes, on its investigations to the Governor, and to the
37 joint standing committees of the General Assembly having cognizance
38 of matters relating to human services and public health.

39 Sec. 2. Section 17a-210 of the 2006 supplement to the general statutes
40 is repealed and the following is substituted in lieu thereof (*Effective*
41 *from passage*):

42 (a) There shall be a Department of Mental Retardation. The
43 Department of Mental Retardation, with the advice of a Council on
44 Mental Retardation, shall be responsible for the planning,
45 development and administration of complete, comprehensive and
46 integrated state-wide services for persons with mental retardation and

47 persons medically diagnosed as having Prader-Willi syndrome. The
48 Department of Mental Retardation shall be under the supervision of a
49 Commissioner of Mental Retardation, who shall be appointed by the
50 Governor in accordance with the provisions of sections 4-5 to 4-8,
51 inclusive. The Council on Mental Retardation may advise the
52 Governor on the appointment. The commissioner shall be a person
53 who has background, training, education or experience in
54 administering programs for the care, training, education, treatment
55 and custody of persons with mental retardation. The commissioner
56 shall be responsible, with the advice of the council, for: (1) Planning
57 and developing complete, comprehensive and integrated state-wide
58 services for persons with mental retardation; (2) the implementation
59 and where appropriate the funding of such services; and (3) the
60 coordination of the efforts of the Department of Mental Retardation
61 with those of other state departments and agencies, municipal
62 governments and private agencies concerned with and providing
63 services for persons with mental retardation. The commissioner shall
64 be responsible for the administration and operation of the state
65 training school, state mental retardation regions and all state-operated
66 community-based residential facilities established for the diagnosis,
67 care and training of persons with mental retardation. The
68 commissioner shall be responsible for establishing standards,
69 providing technical assistance and exercising the requisite supervision
70 of all state-supported residential, day and program support services
71 for persons with mental retardation and work activity programs
72 operated pursuant to section 17a-226. [The commissioner shall conduct
73 or monitor investigations into allegations of abuse and neglect and file
74 reports as requested by state agencies having statutory responsibility
75 for the conduct and oversight of such investigations. In the event of the
76 death of a person with mental retardation for whom the department
77 has direct or oversight responsibility for medical care, the
78 commissioner shall ensure that a comprehensive and timely review of
79 the events, overall care, quality of life issues and medical care
80 preceding such death is conducted by the department and shall, as

81 requested, provide information and assistance to the Independent
82 Mortality Review Board established by Executive Order No. 25 of
83 Governor John G. Rowland. The commissioner shall report to the
84 board and the board shall review any death: (A) Involving an
85 allegation of abuse or neglect; (B) for which the Office of Chief Medical
86 Examiner or local medical examiner has accepted jurisdiction; (C) in
87 which an autopsy was performed; (D) which was sudden and
88 unexpected; or (E) in which the commissioner's review raises questions
89 about the appropriateness of care.] The commissioner shall stimulate
90 research by public and private agencies, institutions of higher learning
91 and hospitals, in the interest of the elimination and amelioration of
92 retardation and care and training of persons with mental retardation.

93 (b) The commissioner shall conduct or monitor investigations into
94 allegations of abuse and neglect and file reports as requested by state
95 agencies having statutory responsibility for the conduct and oversight
96 of such investigations. In the event of the death of a person with
97 mental retardation for whom the department has direct or oversight
98 responsibility for medical care, the commissioner shall: (1) Promptly
99 report such death to the Office of Protection and Advocacy for Persons
100 with Disabilities, and (2) ensure that a comprehensive and timely
101 review of the events, overall care, quality of life issues and medical
102 care preceding such death is conducted by the department and shall,
103 as requested, provide information and assistance to the Independent
104 Mortality Review Board established by Executive Order No. 25 of
105 Governor John G. Rowland. The commissioner shall report to the
106 board and the board shall review any death: (A) Involving an
107 allegation of abuse or neglect; (B) for which the Office of Chief Medical
108 Examiner or local medical examiner has accepted jurisdiction; (C) in
109 which an autopsy was performed; (D) which was sudden and
110 unexpected; or (E) in which the commissioner's review raises questions
111 about the appropriateness of care.

112 [(b)] (c) The commissioner shall be responsible for the development
113 of criteria as to the eligibility of any person with mental retardation for

114 residential care in any public or state-supported private institution
115 and, after considering the recommendation of a properly designated
116 diagnostic agency, may assign such person to a public or state-
117 supported private institution. The commissioner may transfer such
118 persons from one such institution to another when necessary and
119 desirable for their welfare, provided such person and such person's
120 parent, conservator, guardian or other legal representative receive
121 written notice of their right to object to such transfer at least ten days
122 prior to the proposed transfer of such person from any such institution
123 or facility. Such prior notice shall not be required when transfers are
124 made between residential units within the training school or a state
125 mental retardation region or when necessary to avoid a serious and
126 immediate threat to the life or physical or mental health of such person
127 or others residing in such institution or facility. The notice required by
128 this subsection shall notify the recipient of his or her right to object to
129 such transfer, except in the case of an emergency transfer as provided
130 in this subsection, and shall include the name, address and telephone
131 number of the Office of Protection and Advocacy for Persons with
132 Disabilities. In the event of an emergency transfer, the notice required
133 by this subsection shall notify the recipient of his or her right to
134 request a hearing in accordance with subsection [(c)] (d) of this section
135 and shall be given within ten days following the emergency transfer.
136 In the event of an objection to the proposed transfer, the commissioner
137 shall conduct a hearing in accordance with subsection [(c)] (d) of this
138 section and the transfer shall be stayed pending final disposition of the
139 hearing, provided no such hearing shall be required if the
140 commissioner withdraws such proposed transfer.

141 [(c)] (d) Any person with mental retardation who is eighteen years
142 of age or older and who resides at any institution or facility operated
143 by the Department of Mental Retardation, or the parent, guardian,
144 conservator or other legal representative of any person with mental
145 retardation who resides at any such institution or facility, may object to
146 any transfer of such person from one institution or facility to another
147 for any reason other than a medical reason or an emergency, or may

148 request such a transfer. In the event of any such objection or request,
149 the commissioner shall conduct a hearing on such proposed transfer,
150 provided no such hearing shall be required if the commissioner
151 withdraws such proposed transfer. In any such transfer hearing, the
152 proponent of a transfer shall have the burden of showing, by clear and
153 convincing evidence, that the proposed transfer is in the best interest
154 of the resident being considered for transfer and that the facility and
155 programs to which transfer is proposed (1) are safe and effectively
156 supervised and monitored, and (2) provide a greater opportunity for
157 personal development than the resident's present setting. Such hearing
158 shall be conducted in accordance with the provisions of chapter 54.

159 ~~[(d)]~~ (e) Any person, or the parent, guardian, conservator or other
160 legal representative of such person, may request a hearing for any final
161 determination by the department that denies such person eligibility for
162 programs and services of the department. A request for a hearing shall
163 be made in writing to the commissioner. Such hearing shall be
164 conducted in accordance with the provisions of chapter 54.

165 ~~[(e)]~~ (f) Any person with mental retardation, or the parent, guardian,
166 conservator or other legal representative of such person, may request a
167 hearing to contest the priority assignment made by the department for
168 persons seeking residential placement, residential services or
169 residential support. A request for hearing shall be made, in writing, to
170 the commissioner. Such hearing shall be conducted in accordance with
171 the provisions of chapter 54.

172 ~~[(f)]~~ (g) Any person with mental retardation or the parent, guardian,
173 conservator or other legal representative of such person, may object to
174 (1) a proposed approval by the department of a program for such
175 person that includes the use of behavior-modifying medications or
176 aversive procedures, or (2) a proposed determination of the
177 department that community placement is inappropriate for such
178 person placed under the direction of the commissioner. The
179 department shall provide written notice of any such proposed

180 approval or determination to the person, or to the parent, guardian,
 181 conservator or other legal representative of such person, at least ten
 182 days prior to making such approval or determination. In the event of
 183 an objection to such proposed approval or determination, the
 184 commissioner shall conduct a hearing in accordance with the
 185 provisions of chapter 54, provided no such hearing shall be required if
 186 the commissioner withdraws such proposed approval or
 187 determination.

188 Sec. 3. Subsection (d) of section 17a-451 of the 2006 supplement to
 189 the general statutes is repealed and the following is substituted in lieu
 190 thereof (*Effective from passage*):

191 (d) The commissioner shall coordinate the community programs
 192 receiving state funds with programs of state-operated facilities for the
 193 treatment of persons with psychiatric disabilities or persons with
 194 substance abuse disabilities, or both. In the event of the death of a
 195 person with psychiatric disabilities or a person with substance abuse
 196 disabilities, or both, for whom the department has direct or oversight
 197 responsibility for medical care and treatment because such person is
 198 receiving inpatient treatment at a state-operated or state-funded
 199 hospital, the commissioner shall promptly report such death to the
 200 director of the Office of Protection and Advocacy for Persons with
 201 Disabilities.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	17a-210
Sec. 3	<i>from passage</i>	17a-451(d)

Statement of Purpose:

To enact legislation that incorporates elements of Executive Order No. 25, dated February 8, 2002, which included the establishment of the Fatality Review Board.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]